

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

PETER ALLAN TREADWAY JR,

Plaintiff,

vs.

MR. ZAKEN, SUPERINTENDENT, SCI
GREENE; TOM WOLF, GOVERNOR;
JOHN WETZEL, SECRETARY,
PENNSYLVANIA DEPARTMENT OF
CORRECTIONS; TRACY SHALLY,
FORMER SECRETARY, CURRENT UNIT
MANAGEMENT C BLOCK; MR.
SABANDA, HEAD OF RELIGIOUS
SERVICES AT SCI GREENE; MR.
BASKIN, SUNDAY SERVICES; MR.
MALCOM, THE CATHOLIC PRIEST;
GERALD MALCOLM MCDONALD; MR.
VIOLA, YOKE FELLOWSHIP; JAMES
VIOLA; AND STEPHEN BUZAS,
DEPUTY SUPERINTENDENT;

Defendants.

2:21-CV-00353-RJC-CRE

ORDER ADOPTING REPORT AND RECOMMENDATION

Robert J. Colville, United States District Judge.

Presently pending before the Court is a Report and Recommendation filed by the Honorable Cynthia Reed Eddy, Chief United States Magistrate Judge.

This civil action was initiated pro se in this Court on March 16, 2021 by Plaintiff Peter Allan Treadway, Jr., an inmate currently in custody with the Pennsylvania Department of Corrections and housed at State Correctional Institution (“SCI”) at Frackville. Plaintiff voluntarily dismissed his case and now seeks to reopen it. On July 14, 2022, Chief Judge Eddy entered her Report and Recommendation (ECF No. 63) recommending that Plaintiff’s Motion to Reopen (ECF

No. 62) be denied and this case remain dismissed. Plaintiff filed timely Objections (ECF No. 64) to Chief Judge Eddy's Report and Recommendation, as well as a "Notice Disputing Certificate of Service," Exhibits in Support of said Notice, and further Correspondence to the Court. (ECF Nos. 65, 66, 67).

The District Court must make a *de novo* determination of those portions of the report to which objections are made. 28 U.S.C. § 636(b)(1)(C); *see also Henderson v. Carlson*, 812 F.2d 874, 877 (3d Cir.1987). This Court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the Magistrate Judge. The District Court Judge may also receive further evidence or recommit the matter to the Magistrate Judge with instructions.

Plaintiff continues to challenge the service of court filings via Smart Communications, which the Court has explained is DOC policy. At the same time he acknowledges the receipt of the motion to dismiss (ECF No. 47 at 10), which was not even the subject of or the basis for the Report and Recommendation, and which was docketed with the court and served upon him in accordance with Court rules and applicable policies. The Report and Recommendation relied upon Plaintiff's clear and unequivocal voluntary withdrawal of his claims and was not in error; the legal basis for the Recommendation is sound. He simply appears to have changed his mind, and his recourse, if he has any recourse, has been explained to him.

Therefore, upon review of Chief Judge Eddy's July 14, 2022 Report and Recommendation, Plaintiff's subsequent objections and filings in response thereto, as well as a review of the entire record in this matter, and considering the applicable standard of leniency afforded pro se litigants as well as the Federal Rules of Civil Procedure, it is HEREBY ORDERED THAT the Objections to the Report and Recommendation are overruled and the Court approves and adopts the Report and Recommendation (ECF No. 63) in its entirety as the Opinion of the Court. Accordingly, the

Court will deny Plaintiff's Motion to Reopen the Case. (ECF No. 62).

Dated: August 15, 2022.

s/Robert J. Colville
Robert J. Colville
United States District Judge

cc: PETER ALLAN TREADWAY, JR
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